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EXAMINER

GRAYSAY, TAMARA L

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/966,844

Applicant(s)

OUCHI, NORMAN KEN

Examiner

Tamara L. Graysay

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>(1 page)</u> .  | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because of the following:
  - a. Figures 1 and 2A should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). See the Background of the Invention at page 2 of the specification, which refers to the figures as depicting a PERT chart and a three-step expense approval process.
  - b. They fail to comply with 37 CFR 1.84(p)(4) because reference characters "122" and "126" have both been used to designate the business-to business server (e.g., figure 8, and page 12).
  - c. They fail to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "126" (Fig. 8).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

2. The disclosure is objected to because of the following informalities:
  - although acronyms are acceptable, each should be spelled out at least at its first occurrence. For example, LAN, WAN.

Appropriate correction is required.

*Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-6 and 9-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to nonstatutory subject matter.

*Claims 1-6 and 9-10*

a. Claims 1-6 and 9-10 are rejected as being drawn to nonstatutory subject matter insofar as the claims recite only two elements: a project management component and a workflow component. The specification mentions that these components include human beings. A claim that includes a human being in its scope is directed to nonstatutory subject matter. Therefore, claims 1-6 and 9-10 are directed to nonstatutory subject matter.

*Claims 11-16*

b. The basis of this rejection is set forth in a two-prong test: (1) whether the invention is within the technological arts; and (2) whether the invention produces a useful, concrete, and tangible result.

As to the first prong, for a claimed invention to be statutory the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the “progress of science and the useful arts” (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to

be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, even though a practical application of associating tasks within a route segment and associating route segments within a project is recited in process claims 11-16, the claimed process lacks a tie to any technological art. The process claims do not recite any limitations that involve a technology, and the claimed process steps do not require use of any technology to implement the invention. For example, there is no hardware or hardware in combination with software to permit the functionality of the associated elements to be performed. The process steps of dividing, determining, relating, and connecting are abstract ideas that do not fall within the technological arts, as evidenced by the disclosure at page 5, lines 26-29 which mentions that the route steps “need not be performed by a person.” This infers that the steps are performed by a person or human being using the mind and/or paper and pencil, i.e., without the use of hardware or a combination of hardware and software; and without applying, involving, using, or advancing technology.

As to the second prong, for a claimed invention to be statutory the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention produces a task breakdown of the route segments of a project that has a real world application of tracking the status of the tasks, route segments, and overall project.

In conclusion, process claims 11-15 meet the second prong of the two-prong test because they produce a useful, concrete, and tangible result, however, they do not meet the first prong because they are not within a technological art, as explained above.

Therefore, process claims 11-15 are directed to nonstatutory subject matter.

*Claims 16-20*

c. The rejection of claims 11-15, above, applies to claims 16-20. Claims 16-20 are directed to a “system;” however, the claims fail to positively recite the required technological arts, i.e., hardware or a combination of hardware and software that enables the functionality to be realized.

Therefore, claims 16-20 are directed to nonstatutory subject matter.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The preamble for claims 11-15 recites a route constructed by dividing, determining, relat[ing], and connecting. The scope of the claim is not clear insofar as the preamble is drawn to a route, but the body of the claim recites process steps or activities. The claim language must be clarified as to whether the claim is drawn to a product or a process, i.e., a route made by a particular process or a method of constructing a route comprising steps. Consistent with the preamble of claims 11-15, they have been treated as product by process claims.

b. The preamble for claims 16-20 recites a “system” which is generally treated as an apparatus claim. However, there is no structure recited in the body of the claim that would enable the functionality of the claim. For example, the claims recites, “wherein the project is divided” but the body of the claim does not provide any structure to enable the function to be performed or realized. The claim is unclear whether the “system” is an apparatus that divides the project in some manner or whether the system is a process comprising the step of dividing the project. Consistent with the preamble of claims 16-20, they have been treated as an apparatus capable of performing the functions recited therein.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-6 and 9-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lane (US-2002/0026342).

Lane discloses a project workflow system for use in assigning tasks to qualified service providers. The system comprises a project management component (dispatching software [0174]) and a workflow component (scheduling engine [174]). The workflow component includes information related to the service providers (skills, availability, preferences) as well as the service points (time, care needed, care continuity). The service points are tasks broken into tasks that include the care that is to be provided to the patient and the schedule of each service provider is the project that is to be managed based on constraints related to the constraints, e.g., cost and time.

Regarding claim 2, the Lane workflow component notifies the project management component when a route segment is completed, i.e., when a provider completes a patient's care, when a provider takes a break, when a provider leaves a shift. See for example, [0168] through [0181].



Regarding claim 3, the workflow component of Lane notifies the project management component of progress of a rout segment (the service provider takes a break or finishes care of a patient). See [0157] - [0167] and [0174], for example.

Regarding claim 4, the project management component of Lane receives a request for task-to-task connections and responds with a reply. See [0177] and [0179] which discuss the re-routing and on the fly creation of task connections.

Regarding claim 5, the workflow component of Lane creates a route (service provider schedule) connecting the segments (patient care visits or service points) related to tasks (particular patient needs, e.g., medication, vitals, therapy, etc.) in accordance with the task-to-task connections (sequencing of the patient needs in a particular time window). See [0171, [0158], for example).

Regarding claims 6 and 9-10, Lane project management component receives notification from the workflow component; determines the next task; and notifies the workflow component to initiate the route segment related to the next task. See for example the discussion of job completed process [0172], orphaned jobs [0174], and route delays [0177].

Regarding claims 11 and 16, Lane discloses a process of and system for dividing the project (service provider schedule) into tasks (service points); determining the relationship among the tasks (location and time of service points); relating the task to a route segment that implements the task process (the service points are scheduled based on the constraints of the service point (patient care) and of the service provider (service provider skill set or qualifications); and connecting the route segments in relationship to the related tasks (the service

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provider is sent to the service points based on the time windows, for example). See [0157] – [0179].

Regarding claims 12 and 17, Lane discloses route segment and task completion. See for example, [0158] and [0174].

Regarding claims 13 and 18, Lane discloses determining next task and its related route segment after completion of a previous route segment. Lane mentions the service provider going from one service point or patient (route segment) to the next (related route segment) and completing the care (tasks) for that particular patient based on the patient care needs.

Regarding claims 14 and 19, Lane discloses a change to the task-to-task connects changing the route segments connection. For example, if a service provider orphans a service point (patient visit) and associated tasks (patient care) then another service provider is assigned the service point (a change to that service provider's route segments and task-to-task connections). See [0174] for example.

Regarding claims 15 and 20, the process and system of Lane inherently includes changing a route segment and project route when a task is changed. For example, if a break is taken at a particular time, then the break is not scheduled for a later time. See [0173].

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lane (US-2002/0026342), as applied to claim 1, and further in view of Bartholomew (article, A better way to work).

a. Regarding claim 8, Bartholomew teaches a workflow system connected to an email server. The email server is used for notification because it is a more universal interface for a project workflow system. The Bartholomew workflow system is implemented wherein the task completion notification is sent via email to the workflow system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the project workflow system of Lane to include automatic email notification of task completion, such as taught by Bartholomew, in order to interface in a more universal manner, i.e., a manner that is compatible with a company and suppliers.

b. Regarding claim 7, while Bartholomew teaches notification to the workflow component, the examiner takes Official notice that associating an email server with one workflow system component rather than another is a matter of design choice that is

within the level of ordinary skill in the art of workflow development and implementation.

To associate the email server and the email notification with the project management component directly, rather than through the workflow component, would save processing time.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to associate the email server with the project management component of the Lane workflow system, as discussed with regard to the Official notice, in order to initiate an action by the project management component directly rather than through the workflow component indirectly thereby saving processing time.

*Conclusion*


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Newbold (US-2002/0169647) teaches a process and system for "tracking" multiple projects.
- Dunn (article, Going with the flow) teaches email associated with a workflow system (e.g., p.3, penultimate paragraph).
- InfoWorld (article, Juggling deeds, deadlines, part1) teaches subworkflow tools that initiate a portion of a process (e.g., p.2, third paragraph).
- CommunicationsWeek (article, QDM introduces management tool) teaches project management system using tracking and status reports of the workflow process.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is (571) 272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tamara L. Graysay  
Examiner  
Art Unit 3623